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14 IN THE UNITED STATES DISTRICT COURT
15 FOR THE EASTERN DISTRICT OF WASHINGTON
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EQUAL EMPLOYMENT
OPPORTUNITY COMMISSION

19 Plaintiff,
20 v.
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CHIEF ORCHARDS
ADMINISTRATIVE SERVICES,
INC.

Defendant.

CIVIL ACTION NO. CV-

COMPLAINT

JURY TRIAL DEMAND

NATURE OF THE ACTION

This is an action under Title VII of the Civil Rights Act of 1964 and Title I of the Civil Rights Act of 1991 to correct unlawful employment practices on the basis of sex and to provide appropriate relief to Charging Party Kristian Gonzalez (“Gonzalez”). The Equal Employment Opportunity Commission alleges that Defendant Chief Orchards Administrative Services, Inc. subjected Gonzalez to a hostile work environment because of sex, female, which resulted in her constructive discharge. Plaintiff seeks injunctive relief and monetary relief on behalf of Gonzalez, including pecuniary damages, nonpecuniary compensatory damages, punitive damages, back pay, and prejudgment interest.

JURISDICTION AND VENUE

1. Jurisdiction of this Court is invoked pursuant to 28 U.S.C. §§ 451, 1331, 1337, 1343 and 1345. This action is authorized and instituted pursuant to sections 706(f)(1) and (3) of Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §§ 2000e-5(f)(1) and (3) ("Title VII"), and Section 102 of the Civil Rights Act of 1991, 42 U.S.C. § 1981a.

2. The employment practices alleged to be unlawful were committed within the jurisdiction of the United States District Court for the Eastern District of Washington.

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PARTIES

3. Plaintiff, the Equal Employment Opportunity Commission (the "Commission"), is the agency of the United States of America charged with the administration, interpretation and enforcement of Title VII, and is expressly authorized to bring this action by Section 706(f)(1) of Title VII, 42 U.S.C. § 2000e-5(f)(1).

4. At all relevant times, Defendant has been a corporation continuously doing business in the State of Washington and has continuously had at least fifteen (15) employees.

5. At all relevant times, Defendant has continuously been an employer engaged in an industry affecting commerce within the meaning of Sections 701(b), (g) and (h) of Title VII, 42 U.S.C. §§ 2000e-(b), (g) and (h).

ADMINISTRATIVE PROCEDURES

6. More than thirty (30) days prior to the institution of this lawsuit, Charging Party Gonzalez filed a charge with the EEOC alleging violations of Title VII by Defendant.

7. On August 28, 2020, the Commission issued to Defendant a Letter of Determination as to the above charge finding reasonable cause to believe Title VII was violated and inviting Defendant to join with the Commission in informal

methods of conciliation to endeavor to eliminate the unlawful employment practices and to provide appropriate relief.

8. The Commission engaged in communications with Defendant to provide Defendant the opportunity to remedy the discriminatory practices described in the letter of determination.

9. The Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

10. On March 2, 2021, the Commission issued to Defendant a Notice of Failure of Conciliation advising that the Commission was unable to secure from Defendant a conciliation agreement acceptable to the Commission.

11. All conditions precedent to the institution of this lawsuit have been fulfilled.

STATEMENT OF CLAIMS

12. From at least July 2017 until September 27, 2018, Defendant engaged in unlawful employment practices at its facilities in Yakima, Washington in violation of § 703(a) of Title VII, 42 U.S.C. § 2000e-2(a). Defendant engaged in these unlawful practices by subjecting Gonzalez to a hostile work environment based on sex and subjecting her to constructive discharge.

1 13. The practices complained of in paragraph 12 include, but are not
 2 limited, to the following:

3 a. Defendant's employee, a male coworker of Gonzalez, repeatedly
 4 subjected Gonzalez to unwelcome and offensive comments of a
 5 sexual nature, unwelcome touching and grabbing, and stalking
 6 behavior on a daily basis, *e.g.*, he asked what color and brand of
 7 panties she wore, he asked how expensive her panties were, he
 8 commented on her butt, he stared at her, he repeatedly attempted to
 9 grab her hand or arm, he told others that she was going to be his, and
 10 he followed her to the isolated porta-potties.

11 b. Gonzalez complained more than once about the male coworker's
 12 harassment to Defendant's Crew Boss starting in July 2017, and to
 13 Defendant's Foreman about the coworker's offensive and unwelcome
 14 sexual conduct toward her in November 2017.

15 c. Defendant's Crew Boss also reported up the chain to Defendant's
 16 Foreman and Defendant's General Manager about Gonzalez's
 17 repeated complaints to him about the offensive and unwelcome
 18 sexual conduct towards her by the male coworker.

19 d. At all relevant times, Defendant had a complaint procedure policy
 20 which provided that workers should report complaints of

1 discrimination or harassment to their Crew Boss. The Crew Boss
2 should report up to the Foreman or General Manager, who in turn
3 should report up to Defendant's owner.
4

5 e. Defendant failed to take prompt and effective remedial action to stop
6 the male coworker's sexual harassment of Gonzalez in 2017.
7
8 f. The male coworker's offensive sexually harassing conduct towards
9 Gonzalez continued unabated and escalated in 2018, *e.g.*, he followed
10 her to the porta-potties and he knocked or shook the structure when
11 she was inside, he accused her being a prostitute when he saw her
12 talking to another male coworker, he forcibly tried to hug her, he
13 grabbed her and groped her in a manner that left red marks on her
14 arms and shoulder and which she immediately reported to
15 Defendant's Crew Boss.
16
17 g. The male coworker's sexual harassment of Gonzalez resulted in
18 conditions so intolerable that she was forced to resign her position on
19 or about September 27, 2018, thereby resulting in her constructive
20 discharge.
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23 14. The effect of the practices complained of in paragraphs 12-13 above
24 has been to deprive Gonzalez of equal employment opportunities and otherwise
25 adversely affected her status as an employee.

15. The unlawful employment practices complained of in paragraphs 12-13 above were intentional.

16. The unlawful employment practices complained of in paragraphs 12-13 above were done with malice or with reckless indifference to the federally protected rights of Gonzalez.

PRAYER FOR RELIEF

Wherefore, the Commission respectfully requests that this Court:

A. Grant a permanent injunction enjoining Defendant, its officers, successors, agents, assigns, and all persons in active concert or participation with it, from engaging in any employment practices which discriminate based on sex, female.

B. Order Defendant to institute and carry out policies, practices, and programs which provide equal employment opportunities for all employees, and which eradicate the effects of its past and present unlawful employment practices.

C. Order Defendant to make Gonzalez whole by providing appropriate back pay with prejudgment interest, in amounts to be determined at trial, and other affirmative relief necessary to eradicate the effects of Defendant's unlawful employment practices described in paragraphs 12-13 above in amounts to be determined at trial.

D. Order Defendant to make whole Gonzalez by providing compensation for past and future pecuniary losses resulting from the unlawful employment practices described in paragraphs 12-13 above, including past and future out-of-pocket expenses, in amounts to be determined at trial.

E. Order Defendant to make whole Gonzalez by providing compensation for past and future nonpecuniary losses resulting from the unlawful practices complained of in paragraphs 12-13 above, including without limitation emotional pain, suffering, and loss of enjoyment of life, in amounts to be determined at trial.

F. Order Defendant to pay Gonzalez punitive damages for its malicious and reckless conduct described in paragraphs 12-13 above, in amounts to be determined at trial.

G. Grant such further relief as the Court deems necessary and proper in the public interest.

H. Award the Commission its costs of this action.

DATED this 28th day of SEPTEMBER 2021

BY: /s/ Roberta L. Steele
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Regional Attorney
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CERTIFICATE OF SERVICE

2 I hereby certify that on this date, I electronically filed the foregoing with the
3 Clerk of the Court using the CM/ECF system.

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5 DATED this 28th day of September, 2021

6 */s/ Rebecca Eaton*
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